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EXAMINER

FUREMAN, JARED

ART UNIT PAPER NUMBER

2876

DATE MAILED: 01/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/705,361

Examiner

Jared J. Fureman

Applicant(s)

LAWLOR, PAUL

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

1. 35 U.S.C. § 119(a)-(d) for foreign priority applications

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Disposition of Patent Prosecution (PTO-893)
3. ☐ Interview Summary (PTO-413) (Paper 1, 2, 3)
4. ☐ Notice of Informal Patent Application (PTO-015)

DETAILED ACTION

Receipt is acknowledged of the IDS filed on 10/1/2002, which has been entered in the file. Claims 1-40 are pending.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The abstract of the disclosure is objected to because: In line 11, "said" should be replaced with --the--. Correction is required. See MPEP § 608.01(b).

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: --SYSTEM AND METHOD FOR APPLYING CODES ONTO PACKAGED PERISHABLE PRODUCTS--.

Claim Objections

4. Claims 1, 3, 9, 22-24, 29-31, 33, and 40 are objected to because of the following informalities:

Claim 1:

Line 5, "said" should be replaced with --product--, in order to avoid a lack of proper antecedent basis for "said packaging".

Line 11, "the" should be deleted, in order to avoid a lack of proper antecedent

Claim 3, line 2: "the" should be replaced with --a--, in order to avoid a lack of proper antecedent basis for "the printed pack".

Claim 9, line 1, "data" should be replaced with --date--.

Claim 22:

Line 1, "the" should be replaced with --a--, in order to avoid a lack of proper antecedent basis for "the orientation".

Line 2, "said" (first occurrence) should be replaced with --a--, in order to avoid a lack of proper antecedent basis for "said font".

Line 3, "a" (first occurrence) should be replaced with --said--, in order to refer to the font as recited in line 2.

Claim 23, line 2: "said" should be replaced with --a--, in order to avoid a lack of proper antecedent basis for "said font", and --submits-- should be inserted after "and".

Claim 24, line 8: "the" should be deleted, in order to avoid a lack of proper antecedent basis for "the capabilities".

Claim 29, line 1: "the" should be deleted, in order to avoid a lack of proper antecedent basis for "the data required to be incorporated within a barcode".

Claim 30, line 1: "the" should be deleted, in order to avoid a lack of proper antecedent basis for "the information required for representation as a barcode".

Claim 31:

Lines 4, "said" should be deleted, in order to avoid a lack of proper antecedent

Line 6, "the" should be deleted, in order to avoid a lack of proper antecedent basis for "the capabilities".

Claim 33:

Line 2, "the" should be replaced with --a--, in order to avoid a lack of proper antecedent basis for "the design".

Line 6, "station" should be replaced with --device--, in order to provide consistency with line 1.

Line 7, "station" should be replaced with --device--, in order to provide consistency with line 3.

Claim 40, line 2: "the" should be deleted, in order to avoid a lack of proper antecedent basis for "the generation".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6-33, 35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of Suzuki et al (EP 0 820 004 A1, cited

packaged consumer products (such as perishable products), wherein, the products are

packed individually and then further packed into groups of products (for example, traded units are constructed from assemblies of consumer product, each of which may have many consumer products contained therein), at least one coder applies information to the packaging, the coder receives instructions from a processing system (such as one or more PC type computer systems), the processing system receives input data (for example, dates and prices) representing an image to be coded onto the packaging and generates the instructions for the coder, wherein the groups of products are further packed into tradable units (see page 2 lines 20-24 of the specification), wherein a first coder applies a code to a printed pack of a consumer product (see page 3 lines 5-11 of the specification), wherein the consumer product is a perishable food item, wherein a second coder applies a code to an assembly of products (see page 3 lines 5-11 of the specification), wherein a third coder applies a code to a packaged unit having a plurality of assemblies packed therein (see page 3 lines 5-11 of the specification), wherein the processing system receives an instruction to code a date, wherein the date is a sell by date or a use by date, wherein the processing system instructs a coder to code a date, wherein the processing system calculates the date and supplies a character string to the coder (see page 3 lines 2-5 and page 3 line 18 - page 4 line 3 of the specification), wherein the processing system receives an instruction to code an incrementing number (for example, an incrementing lot number, see page 3 lines 2-5 of the specification) onto a package, wherein the processing system instructs a coder to calculate and print an

page 4 line 3 of the specification), wherein the processing system receives an instruction to code a barcode, wherein the processing system generates a character string representing the barcode and supplies the character string to a coder such that the coder generates the barcode from the character string (see page 1 lines 18-22, wherein a unique information is printed using a barcode, page 2 line 25 - page 3 line 5, wherein unique information is printed on the packaging, and page 3 line 18 - page 4 line 3 of the specification, wherein a processing system controls the printers/coders), wherein the processing system receives an instruction to code text (for example, dates and prices), wherein the processing system instructs the coder to code the text using a font (the dates and prices are necessarily printed using a font), wherein an orientation of a font is examined by the processing system, the coder is instructed to code a font is the orientation is in a preferred direction, a computer-readable medium having computer-readable instructions executable by a computer such that, when executing the instructions, a computer will perform the printing/coding steps (the one or more PC type computer systems will necessarily include a computer-readable medium having computer-readable instructions executable by computer), a method of communicating between a first processing device configured to facilitate a design of codes for packaged consumer products and a second processing device configured to control coding machines for coding the packaged products in response to the design, the codes including information concerning dates, barcodes, or an incremental counter (see page

The admitted prior art fails to specifically teach the processing system generating the instructions with reference to capabilities of the coder such that, in dependence upon the capabilities, the processing system either instructs the coder to generate a graphical representation in response to coded instructions, or the processing system assists the coder to generate the graphical representation before supplying lower level instructions to the coder, the processing system generates a bitmap representation of the date/number/barcode/font and supplies the bitmap to the coder, data transmitted from the first processing device to the second processing device defines the codes in a generic non-coder specific format defining a requirement for the codes, the second processing device is aware of coder capabilities and instructs specific coders to apply codes in response to a generic code design and a definition of capabilities for a specific coder, wherein the generic non-coder specific format defines a plurality of fields, wherein each of the fields specifies generic instructions for a specific portion of the code, a field represents information concerning dates, barcodes, or an incremental counter.

Suzuki et al teaches a system and method wherein a coder (page printer 3) receives instructions from a processing system (host computer 1), the processing system receives input data representing an image to be coded and generates the instructions for the coder, wherein the processing system generates the instructions with reference to capabilities of the coder such that, in dependence upon the

response to coded instructions, or the processing system assists the coder to generate the graphical representation before supplying lower level instructions (using an intermediate code, an intermediate language (IML)) to the coder, the processing system generates a bitmap (bit images) representation of the information to be printed and supplies the bitmap to the coder, the host computer necessarily includes a computer-readable medium having computer-readable instructions executable by the host computer such that, when executing the instructions, the host computer will perform the printing/coding steps, data transmitted from the processing device defines the codes in a generic non-coder specific format (an intermediate language) defining a requirement for the codes, the processing device is aware of coder capabilities and instructs specific coders to apply codes in response to a generic code design and a definition of capabilities for a specific coder, wherein the generic non-coder specific format defines a plurality of fields (the intermediate language includes characters and bit images), wherein each of the fields specifies generic instructions for a specific portion of the code (see figure 1, column 1 lines 7-11 and column 1 line 54 - column 3 line 37, column 4 line 10 - column 5 line 11, column 5 lines 22-47, column 8 line 44 - column 9 line 7, column 12 lines 17-36).

In view of Suzuki et al's teachings it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the apparatus and method as taught by the admitted prior art, the processing system generating the instructions with

response to coded instructions, or the processing system assists the coder to generate the graphical representation before supplying lower level instructions to the coder, the processing system generates a bitmap representation date/number/barcode/font and supplies the bitmap to the coder, data transmitted from the first processing device to the second processing device defines the codes in a generic non-coder specific format defining a requirement for the codes, the second processing device is aware of coder capabilities and instructs specific coders to apply codes in response to a generic code design and a definition of capabilities for a specific coder, wherein the generic non-coder specific format defines a plurality of fields, wherein each of the fields specifies generic instructions for a specific portion of the code, a field represents information concerning dates, barcodes, or an incremental counter, in order to improve the throughput of the whole system even without enhancing the throughput of a printer itself (see Suzuki et al, column 1 lines 7-11 and column 1 line 54 - column 2 line 6).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art as modified by Suzuki et al as applied to claim 4 above, and further in view of Yoshihiro (JP 08-295054 A).

The admitted prior art as modified by Suzuki et al fails to specifically teach the consumer product being a pre-prepared meal for consumption within two to twenty days.

Yoshihiro teaches an apparatus and method for applying codes onto packaged

potato salad or wakame seaweed salad) for consumption within two to twenty days (see figures 1, 5-7 and the English translation).

In view of Yoshihiro's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the apparatus and method as taught by the admitted prior art as modified by Suzuki et al, the consumer product being a pre-prepared meal for consumption within two to twenty days, in order to provide a pre-prepared meal with a sell by or use by date, thus informing the consumer as to how long the meal is suitable for consumption.

8. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art as modified by Suzuki et al as applied to claim 33 above, and further in view of Yeung (US 6,426,798 B1).

The admitted prior art as modified by Suzuki et al fails to specifically teach the generic non-coder specific format being consistent with standards of the extensible mark-up language recommendations.

Yeung teaches the use of a generic non-coder (printer) specific format that is consistent with standards of the extensible mark-up language recommendations (see column 2 line 57 - column 3 line 23).

In view of Yeung's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the apparatus and method as taught by the admitted prior art as modified by Suzuki et al, the generic non-coder

can be used to create a universal printer description file for virtually any printer in virtually any operating system that supports the extensible mark-up language (see column 3 lines 3-8 of Yeung), thereby making the apparatus and method compatible with many existing devices.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wagner et al (US 5,600,565) and Graushar et al (US 6,347,260 B1) both teach product packaging systems and methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (703) 305-0424. The examiner can normally be reached on 7:00 am - 4:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jared J. Fureman
Jared J. Fureman
January 12, 2003